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Report of the Human Rights Council

Proposed programme budget for the biennium 2012-2013

Financing of unforeseen and extraordinary expenses arising from resolutions and decisions of the Human Rights Council

Seventeenth report of the Advisory Committee on Administrative and Budgetary Questions on the proposed programme budget for the biennium 2012-2013

1. The Advisory Committee on Administrative and Budgetary Questions has considered the report of the Secretary-General on the financing of unforeseen and extraordinary expenses arising from resolutions and decisions of the Human Rights Council (A/66/558). During its consideration of the report, the Advisory Committee met with representatives of the Secretary-General, who provided additional information and clarification.

2. The Secretary-General's report was submitted in response to General Assembly resolution 65/281, in which the Assembly recognized the need to provide adequate financing to fund unforeseen and extraordinary expenses arising from resolutions and decisions of the Human Rights Council, and requested the Secretary-General to present a report with options for consideration by the Fifth Committee at the main part of the sixty-sixth session.

3. The existing procedures for financing unforeseen and extraordinary expenses of various kinds are outlined in section II of the Secretary-General's report. The Advisory Committee notes, in particular, that, in cases where unforeseen activities are not related to peace and security, the Secretary-General is authorized, with the prior concurrence of the Advisory Committee, in accordance with paragraph 1 of the General Assembly resolutions on unforeseen and extraordinary expenses (the latest such resolution being 64/246), to enter into commitments for expenditures for which provision has not been included in the approved programme budget and for which the Secretary-General cannot await the approval of the General Assembly (A/66/558, para. 9).

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4. In section III of his report, the Secretary-General gives an overview of the current arrangements for financing activities resulting from resolutions and decisions of the Human Rights Council. In brief, he recalls that, when the Human Rights Council was established to replace the Commission on Human Rights, its rules of procedure did not provide for any specific funding mechanism. It was initially thought that the procedure for handling the financial implications of the Council's reports would be similar to that employed in respect of its predecessor and described in paragraphs 13 to 15 of the Secretary-General's report. However, according to the Secretary-General, the Human Rights Council has held sessions more frequently than did the Commission on Human Rights. Many of those sessions have resulted in the establishment of fact-finding missions or independent commissions of inquiry, tasked with investigative powers to assess certain critical human rights situations on an urgent basis (A/66/558, para. 16). As illustrated in the table following paragraph 17 of the Secretary-General's report, unforeseen expenses relating to commissions of inquiry and fact-finding missions are expected to total more than $4 million during the biennium 2010-2011.

5. The Secretary-General states in his report that, since the activities referred to in the preceding paragraph have required urgent implementation, it has not always been possible to seek the concurrence of the Advisory Committee for commitment authority under the provisions of the relevant General Assembly resolutions on unforeseen and extraordinary expenses or to wait for the approval of the Assembly in its normal annual review of budgetary matters. Accordingly, the Office of the United Nations High Commissioner for Human Rights has had to resort to all available sources of funding for the quick start, continuation and completion of those activities, including the temporary redeployment of existing regular budget resources allocated for other activities and, for the first time in 2011, the use of extrabudgetary resources (ibid., paras. 18-19).

6. The Secretary-General points out in his report that, pursuant to paragraph 31 of the annex to General Assembly resolution 65/281, the financing of special procedure activities is supposed to be achieved through the regular budget. He also indicates that, since the Assembly in its resolution 63/263 confirmed that revised estimates arising from resolutions and decisions of the Human Rights Council should be consolidated and presented in a single annual report, so as to avoid "piecemeal" budgeting, the review by the Advisory Committee and the General Assembly of resource requirements for urgent human rights procedures has been, for the most part, ex post facto. The resources within the approved appropriation have subsequently been redeployed to cover those resources already committed (ibid., paras. 20-21). During its consideration of the Secretary-General's report, the Advisory Committee was informed, upon enquiry, that, to date, no urgent human rights activities mandated by the Human Rights Council had been cancelled or curtailed owing to a lack of funding.

7. The Advisory Committee was also informed, upon enquiry, that during an informal meeting of the Chair of the Fifth Committee, the Deputy High Commissioner for Human Rights and Member States early in 2011, the Chair of the Fifth Committee indicated that the General Assembly had not, to date, been amenable to receiving three separate presentations (at the main part of the session and at the first and second parts of the resumed session) of financial requirements for the Human Rights Council (pursuant to its above-mentioned resolution 63/263). He further noted that, in any case, the present calendar of meetings of the Fifth

Committee was fully charged and could not accommodate additional meeting time devoted to human rights issues.

8. In his report, the Secretary-General proposes the following three options to ensure the availability of funds for the implementation of the urgent human rights activities arising from the resolutions and decisions of the Human Rights Council:

(a) Including a provision in the amount of $2 million for special missions in the area of human rights under section 24 (Human rights) of the proposed programme budget. Should the urgent additional requirements exceed the approved biennial provision, the Secretary-General may seek recourse to the provisions of the General Assembly resolution on unforeseen and extraordinary expenses;

(b) Establishing a reserve fund through additional appropriations in the amount of $2 million per biennium for financing special missions in the area of human rights. Resources committed under this arrangement would be replenished annually through an additional appropriation sought from the General Assembly in the context of its consideration of the consolidated statement on the contingency fund. Upon enquiry, it was clarified to the Committee that the reserve fund would be established as part of section 24 (Human rights) of the proposed programme budget;

(c) Authorizing access to immediate funding, by means of a commitment authority in the amount of $2 million per biennium, under the terms of paragraph 1 (a) of the General Assembly resolution on unforeseen and extraordinary expenses. Upon enquiry, it was clarified to the Advisory Committee that this option, if approved, would not require its concurrence.

9. The Advisory Committee was also informed, upon enquiry, that, in general, the activities requiring funding on an urgent basis would consist of fact-finding missions or commissions of inquiry mandated to look into a specific human rights situation or event. It was possible, however, that some kind of alternative mechanism might be called for in future to carry out similar urgent activities. Upon request, the Committee was provided with the following criteria which could be applied to determine whether or not a particular human rights activity required funding on an urgent basis:

- The alleged and factual human rights violations are time-sensitive in terms of involving loss of life, life-threatening situations or either imminent or ongoing damage of a very grave nature to victims that cannot be addressed in a timely manner by any other established human rights procedure.
- The activity is mandated by the Human Rights Council or the Security Council (and, in principle, the Third Committee, which considers human rights issues).
- The activity requires immediate and/or time-bound implementation.
- The activity is for a limited duration with an established final reporting deadline (that is, is not considered an ongoing or open-ended activity).

The Advisory Committee was further informed that an activity would be regarded as urgent when it could not be accommodated within existing budgetary provisions without the elimination of existing mandated activities or programmes. **In the Advisory Committee's view, the unavailability of funding for an activity is not a determinant of the urgency of that activity.**

10. Upon enquiry, the Advisory Committee was informed that, in July 2007, when the Secretary-General first submitted proposals for the financing of unforeseen and extraordinary expenses arising from resolutions and decisions of the Human Rights Council, it was anticipated that the sum of $2 million would finance the deployment of approximately four human rights missions over the course of the biennium 2008-2009. That figure was based on experience gained from the bienniums 2004-2005 and 2006-2007 and represented the anticipated full cost of the missions. The Committee was further informed that, although the future number, nature and duration of the mandates emanating from the Human Rights Council could not be predicted with any certainty, it was assumed, on the basis of the experience gained since 2006, that the requirements for urgent special human rights missions would remain at a level of around $2 million per biennium.

11. Upon enquiry, the Advisory Committee was provided with additional information on the procedure referred to in paragraph 9 of the Secretary-General's report for financing unforeseen activities that are not related to peace and security under paragraph 1 of the resolutions on unforeseen and extraordinary expenses (see para. 3 above). The Committee was informed that the procedure had been described in the report on unforeseen and extraordinary expenses that the Secretary-General had submitted to the General Assembly at its fiftieth session (A/C.5/50/30), and that annex III to that report contained a list of commitments entered into under the provisions of resolutions on unforeseen and extraordinary expenses for the period from 1988 to 1995. The procedure had been used five times during that period to finance activities not related to peace and security, including the establishment of the Centre for Human Rights in Cambodia ($288,000 in September 1993, pursuant to General Assembly resolution 46/187) and a technical survey mission for the International Civilian Mission in Haiti ($1,000,000 in 1994, pursuant to General Assembly resolution 48/229).

12. The Advisory Committee was further informed that, in section IX of its resolution 50/216, the General Assembly had decided to authorize the Secretary-General to continue with the arrangements described in his report pending a further decision on them. **It is the Committee's understanding that the General Assembly did not take any further decision that affected the procedure referred to in paragraph 9 of the Secretary-General's present report and that, therefore, it continues to apply.** In this connection, the Committee was informed that, in 1999, commitments of $553,500 were entered into under paragraph 1 of General Assembly resolution 52/223 on unforeseen and extraordinary expenses for the establishment of a commission of inquiry concerning the situation of human rights in East Timor. The Committee requested, but did not receive, information on other instances in which the procedure had been utilized since 1995. The Committee was further informed that the wording of the chapeau of paragraph 1 of the most recent resolution on unforeseen and extraordinary expenses (resolution 64/246) was identical to the wording of the chapeau of paragraph 1 of the resolution adopted on that same subject by the General Assembly at its fiftieth session (resolution 50/217), and that the interpretation of that paragraph had not therefore changed.

13. It is clear from the Secretary-General's report that the primary motivation for his proposals is the need to respond quickly to requests for resources for urgent human rights-related activities. **The Advisory Committee considers, however, that the Secretary-General's proposal to change the current arrangements for financing unforeseen and extraordinary expenses arising from the resolutions**

and decisions of the Human Rights Council is premature, since the existing financing mechanism described in paragraph 9 of the Secretary-General's report does not appear to have been utilized since the establishment of the Human Rights Council in 2006. In the Committee's view, the mechanism must be assumed to be fit for purpose. In this connection, the Advisory Committee is puzzled by the assertion made in paragraph 18 of the Secretary-General's report that it has not always been possible to seek its concurrence for commitment authority for urgent human rights missions under the provisions of paragraph 1 of the relevant General Assembly resolutions on unforeseen and extraordinary expenses.

14. **In view of the foregoing, the Advisory Committee therefore recommends that the General Assembly decide to maintain the current procedure for meeting unforeseen and extraordinary requirements not related to peace and security, as described in paragraph 9 of the Secretary-General's report, in respect of the financing of urgent human rights activities. For its part, the Advisory Committee stands ready to consider urgent requests for resources relating to human rights activities mandated by the Human Rights Council under the aforementioned procedure as and when required, and urges the Secretary-General to make every effort to ensure that the time taken to prepare the relevant submissions does not delay the release of resources. The Committee also emphasizes that, when requesting commitment authority under this procedure, the Secretary-General must always explain why the additional requirements cannot be immediately absorbed within the approved resources. The Advisory Committee further recommends that the General Assembly request the Secretary-General to report back to the Assembly at its sixty-eighth session on the utilization of this procedure.**